

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:16-cv-00338-RJC
(3:13-cr-00105-RJC-1)

JONATHAN JAMES,)
Petitioner,)
v.) **ORDER**
UNITED STATES OF AMERICA,)
Respondent.)

THIS MATTER is before the Court on consideration of Respondent's motion to stay the disposition of Petitioner's § 2255 Motion to Vacate. (Doc. No. 4: Motion to Stay). Petitioner does not oppose the motion.

In his § 2255 Motion to Vacate, Petitioner challenges his conviction under 18 U.S.C. § 924(c), relying on the Supreme Court's decision in United States v. Johnson, 135 S. Ct. 2551 (2015), in which the Court struck down the residual clause of the Armed Career Criminal Act (ACCA), 18 U.S.C. § 924(e), after concluding that it violated due process because it was unconstitutionally vague.

In the motion to stay, Respondent cites the cases of United States v. Ali, No. 15-4433 (4th Cir.) and United States v. Simms, No. 15-4640 (4th Cir.), which are pending before the Fourth Circuit and consider whether the residual clause of 18 U.S.C. § 924(c) that defines a "crime of violence" is still constitutional following the Johnson decision.

Because resolution of the issues involved in Ali and Simms may have a bearing on the disposition of the issues in Petitioner's case, the Court will grant Respondent's motion.

IT IS, THEREFORE, ORDERED that Respondent's motion to stay is **GRANTED**,

(Doc. No. 4), and Respondent shall have 60-days from the date the cases of Ali and Simms are decided to file a response to Petitioner's § 2255 Motion to Vacate.

SO ORDERED.

Signed: December 19, 2016



Robert J. Conrad, Jr.
United States District Judge

